IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE BILAL NAZKI**

**and**

**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT PETITION NO : 22034 of 2003**

Between:

M/s.Sri Srinivasa Rice and Flour Mill, Nakarikallu, Guntur District, represented by its Managing Partner Kalangi Ramasubba Rao, S/o.Seetha Ramaiah, aged about 56 years.

**..... PETITIONER**

AND

1 The Commissioner of Commercial Taxes, Govt. of A.P., Excise and Commercial Taxes Complex, M.J.Road, Nampally, Hyderabad -500 001.
2 The Deputy Commissioner of Commercial Taxes, Guntur-II Division, Narasaraopet Division, Guntur.
3 The Commercial Tax Officer, Narasaraopet, Guntur Dist.

4 M/s Union of India, Ministry of Finance, Finance Department,

(Sales Tax), represented by its Secretary, New Delhi.

(R-4 is impleaded ass per Court orders dated 23-12-2003

in W.P.M.P.No.33700 of 2003)

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction more particularly in the nature of writ of prohibition prohibiting the Commercial Tax Officer, Narasaraopet, Guntur District from proceeding with the assessments of either final or provisional nature for 2002-2003 and 2003-2004 pursuant to the notices of assessment dated 13-08-2003 as the proposed assessment in terms of the notices is contrary to the judgment of the Honourable Supreme Court in 129 STC page 107 and also the judgment of this Honourable Court in 28 APSTJ page 299 violating articles 141 and 227 of the Constitution of India as also articles 19(1)(g) read with section 265 of the Constitution of India respectively and directing the third respondent to complete the assessments in accordance with the judgment of the Supreme Court mentioned supra and grant such other relief or reliefs

**Counsel for the Petitioner: MR.M.V.J.K.KUMAR**

**Counsel for the Respondents: GP FOR COMMERCIAL TAX**

**The Court made the following:**

ORDER: (Per the Hon'ble Sri Justice Bilal Nazki)

This writ petition has been filed seeking a writ of prohibition against the assessing authority from proceeding with assessment.

Two show cause notices were issued to the petitioner on 13-08-2003 with respect to assessment years 2002-2003 and 2003-2004. These show cause notices are challenged on an apprehension that the assessing authority would not follow the law as laid down by the Hon'ble the Supreme Court in making the final assessment. There is no basis for such an apprehension, either for the Court or for the petitioner. When a show cause notice is issued by a competent authority, who is competent to issue it and it is not without jurisdiction, it is highly improbable that a dealer would know as to what orders the assessing authority would pass. It is highly imaginative to imagine that an assessing authority would pass an order, which is in conflict with the judgment of the Supreme Court. The writ petition, on the face of it, is misconceived and is only filed in an attempt to subvert the process of law and misuse and abuse the judicial process of this Court. The learned Senior Counsel appearing for the petitioner submits that pending this writ petition, the authority has passed order in conformity with Judgment of Supreme Court granting exemption.

That further proves that the writ petition had been filed in this Court for ulterior purposes.

In these circumstances, we dismiss this writ petition, impose costs of Rs.5,000/-.

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**(BILAL NAZKI, J)**

Date: 17-08-2004

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**(S.ANANDA REDDY, J)**

GHN/AJR

To

1 The Commissioner of Commercial Taxes, Govt. of A.P.,
Excise and Commercial Taxes Complex, M.J.Road, Nampally,
Hyderabad -500 001.
2 The Deputy Commissioner of Commercial Taxes, Guntur-II Division,
Narasaraopet Division, Guntur.
3 The Commercial Tax Officer, Narasaraopet, Guntur Dist.

4 The Secretary, M/s Union of India, Ministry of Finance, Finance

Department, (Sales Tax), New Delhi.

5 Two CCs to the Government Pleader for Commercial Tax, High Court of

A.P., Hyderabad. (o.u.t.)

6 Two CD copies.